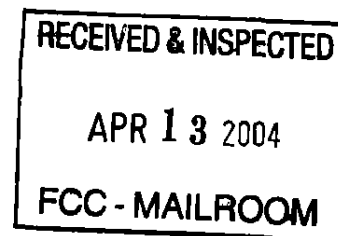


Los Angeles County
Regional Criminal
Information
Clearinghouse

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April 9, 2004



Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Secretary Dortch:

Re: RM-10865/DA No. 04-700 --
Comments on the CALEA Petition for Rulemaking

I am writing to you on behalf of 176 participating federal, state and local law enforcement agencies of the Los Angeles High Intensity Drug Trafficking Area (LA HIDTA). The Los Angeles County Regional Criminal Information Clearinghouse (LA CLEAR) is one of the original initiatives of LA HIDTA. LA CLEAR operates an electronic surveillance center which is shared and jointly utilized by our member agencies. During calendar year 2003, the LA CLEAR electronic surveillance center supported 16 major criminal investigations in which more than 300 target telephones were intercepted in a variety of cases including kidnapping, homicide, narcotics and related conspiracies. In every one of these cases, the ability of the investigator to integrate a wiretap solution in his surveillance operation was the decisive factor in a successful outcome. By any measure, electronic telecommunications intercepts have become an essential component to operations throughout our region. Attachment 1 contains accounts of just a few of the cases which illustrate this point.

Accordingly, I am submitting comments on the U.S. Department of Justice's ("DOJ"), Federal Bureau of Investigation's ("FBI"), and U.S. Drug Enforcement Administration's ("DEA") Joint Petition ("Petition") filed on March 10, 2004, before the Federal Communications Commission ("FCC") requesting that the FCC resolve, on an expedited basis, various critically important issues arising from the implementation of the Communications Assistance for Law Enforcement Act ("CALEA").

The ability of law enforcement agencies, at every level, to successfully employ electronic telecommunications intercepts, *regardless of the underlying technology*, and within the constraints of Title III, must not be diminished in any way. This is the original intent of CALEA, and it is the central purpose of the petition.

It is vitally important, and consistent with Congress's intent in enacting CALEA, that the FCC initiate a rulemaking proceeding and adopt the rules proposed by the DOJ and DEA in the above Petition. Congress enacted CALEA in 1994 to insure that law enforcement has the ability to conduct authorized wiretaps in the future as technologies changed. Since 1994, many new communications technologies have arisen, including broadband Internet access, voice over IP

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telephony ("VoIP"), push-to-talk digital dispatch services, and other packet mode services. These services, currently used by millions of American citizens, pose a great challenge to state and local law enforcement in that many such providers of these communications services have failed to voluntarily adopt currently available CALEA intercept solutions. Thus, law enforcement has been thwarted in its attempts to implement lawfully authorized surveillance intercepts.

Voluntary industry compliance with CALEA does not work. For example, two broadband service providers in the greater Los Angeles area market openly admit that their telephony infrastructure is not CALEA-compliant. It is, therefore, not compatible with the CALEA-compliant collection platforms such as those used in our facility. Instead, these providers recommend that law enforcement agencies "go to the FBI" to do their intercepts, because that agency has invested over \$100,000 in a unique *work-around* solution to dodge the expense of fielding any of the available CALEA-compliant remedies.

Two other providers offering wireless services are fielding new push-to-talk features which are not CALEA-compliant. Of all wireless features available on the market today, push-to-talk services are the most popular among violent street gangs. One suspect using this feature from a third carrier which is in compliance was intercepted literally in the act of setting up a drive-by shooting. While this incident ended favorably, it would not have turned out that way if he had subscribed to either of the other two providers. Attachment 2 contains this and other examples of the growing burden that these issues have imposed upon our agencies.

State and local law enforcement agencies do not have the financial or personnel resources to develop costly *ad hoc* surveillance solutions for each new communications service. Nor should they have to under the current law. For all equipment, services and facilities deployed after January 1, 1995, Congress, through CALEA, expressly passed the burden of designing and paying for such surveillance solutions onto the telecommunications carriers themselves.

Given the importance of the issues discussed above, it is important that the FCC promptly act upon the Petition and commence a rulemaking proceeding adopting the DOJ's, DEA's and FBI's proposed rules.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Kenney", written over a horizontal line.

John Kenney,
Executive Director

Attachment 1 - Wiretap Successes

Agency	Case			Target		Outcome	Remarks
	Kidnapping	Homicide	Narcotics	Landline	Wireless		
LASD/Azusa PD		X		11	3	5 Arrests and convictions - 1 25 yrs to life - 1 13 yrs - 3 5 yrs	The other 4 targets would not be convicted if it weren't for the wiretap. A conspiracy to murder witnesses was heard over the wiretap while the main target was in L.A. county jail. Plot was uncovered and prevented through the wire
LASD/Burbank PD		X		11	5	Arrest of cop killer	Target's associates were identified from the wiretap investigation. Intercepted calls between suspects and associates in both the US and Mexico revealed new suspects, which are currently being investigated.
Fullerton PD		X			1	1 Arrest	Pen register data provided investigators cell site information and aided them to concentrate on one area where target was hiding. Suspect was arrested within 3 days
LAPD		X		4	6	1 Arrest and 4 firearms	Investigating agents heard targets on their cell phones planning the delivery of firearms from Fresno to L.A.
LA IMPACT			X		1	1 Arrest; 40 LBS OF Pseudo ephedrine; 5 LBS Methamphetamine; \$10,000.00 cash	This drug dealer is a major distributor of chemicals to produce methamphetamine in the L.A. area, and using a business that he is employed by as a front. Wiretap investigation directed agents to target's planned operations.
HIDTA 44			X	3 New 2 Extensions	37 New 21 Extensions	47 Arrests Seizures of: 15 guns, \$3,250,000.00 cash and assets, \$25,000,000.00 in drugs	For 2003, the SCDTF(Southern California Drug Task Force) HIDTA Group 44, yielded multiple pertinent calls from their wiretap investigation. They captured significant conversation regarding narcotic operations that led them to numerous arrests and seizures. Among the arrests was an individual who plead to charges under the recently-enacted Patriot Act, the first such case of its type in the Western District, and to multiple conspiracy charges under California state narcotics law. Major quantities of drugs, and money directly linked to terrorist elements.
Downey Police / LA IMPACT	X				1	Suspect in custody and recovered victim	Although this wire had many problems getting started with AT&T, with it we were able to guess where the suspect was and fill the highways in that area with California Highway Patrol and recover the victim before the suspect planned murder / suicide.
LASD		X			1	1 Arrest	Suspect would only talk to one person, so after setting that person up with a phone, suspect fully confessed to murder on the wiretap
LASD		X		1		2 Arrests	While wiretapping a jail line to get a confession from a murder suspect, it was discovered that the suspect with the help of Guard was getting around some of the security measures of the jail system (because of the ongoing investigation of the jail Guard some details are left out on this)
LAPD		X				4 Arrests	After a murder case went dead because of the suspect's burning of the murdered body to hide the evidence. During the wiretap the suspects revealed enough information to be convicted for the crime.

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Agency	Case			Target		Outcome	Remarks
	Kidnapping	Homicide	Narcotics	Landline	Wireless		
LAPD / Cold Cases		X				1 Arrest	A murderer from a case over 20 years old was finally brought to justice. The decisive evidence was obtained after investigators re-opened the case, wiretapped the suspect and re-interviewed the original witnesses in the case.
BICE/DEA			X		21	Active case over \$500,000.00 in drugs and assets so far	This wiretap is into its 3rd month. The suspects in this case are using the Internet to communicate with each other on the where, when's, and how's the drugs and money are to be moved and sold. We know all of this because of the wiretap. So far the seizures have resulted from agents piecing little parts of the conversations together. One of the bigger seizures resulted from a suspect telling another party the he would email the info from a coffee house. Agents followed the suspect to the coffee house watched him email, and after he left, identified themselves to the manager of the place and then looked at the info the suspect left on the PC. This made a good seizure but there's is now the worry that the manager may let the suspect know what happened if the suspect ever returns there.
LAPD		X			1	1 Arrest at this time	Detectives monitored a call between a suspect and a suspected co-conspirator in a murder. During the call it was clear that the two were discussing the murder of a second suspect in the investigation. During this same call, a second murder was revealed. A third person, a witness in the case, came on the line and arranged a meet with the principle suspect. Concerned for the survival of the witness, a surveillance team arrested the suspect. Detectives were able to intercept the other co-conspirator and the witness at the meet location. During subsequent interviews, detectives obtained a full confession. Suspect admitted that he was going to flee the area due to complicity in the murder. He also provided additional information on several other murders. The telecommunications intercepts not only enhance the investigation, it saved the lives of witnesses. Audio from the wiretap and the timing of the arrest had the effect of overwhelming the suspect during the interview process.
LBPD (Long Beach, CA)	STILL ACTIVE (CLOSE-HOLD)						At one point in the intercept, investigators heard subjects, on the street in a car with weapons ready, using NEXTEL Direct Connect (push-to-talk) to set up an impromptu drive-by shooting on rival gang members. Investigators alerted a gang surveillance team on the street. 15 minutes later, the surveillance team pulled the vehicle over and prevented the shooting. Suspects assumed it was a routine traffic stop.

Attachment 2 - Carrier Cooperation

Agency	Case			Target		Outcome	Remarks
	Kidnapping	Homicide	Narcotics	Landline	Wireless		
LASD		X		AT&T Broadband		Successful wiretap but delay in set up	Because of the cost, approx \$100,000.00 to purchase a PC capable of doing an AT&T Broadband phone line, we have the LEA include the FBI on all court ordered documents. We then have the FBI connect us through their L.A. office into AT&T Broadband system.
HIDTA			X	X	X	Delay in setting wiretap	When a phone number ends up being used by a phone company reseller, we constantly run into administrative delays in getting these lines turned on. This causes delays in obtaining proper subscriber information both pre and post court order, call information and instructions for installing remote intercept devices.
LA IMPACT	X				X	Unfulfilled wiretap	Phone companies, like AT&T Wireless, constantly call for re-writes of the judges' court orders. These cause unnecessary and dangerous delays. In doing so, they endanger lives and postpone cases. In this LAIMPACT case for example, we requested an exigent circumstance wiretap during a kidnapping investigation that was potentially going to end as a murder/suicide. AT&T Wireless throughout the day challenged the "exigent circumstance". By the time they hooked up the wiretap, the battery in the kidnapper's cellphone had expired and was no longer sending signal.
LAPD		X	X		X	Unfulfilled CDC requirement	Cingular is now on their 3rd attempt to come up with an economically, feasible CDC solution. Unfortunately, attempts 1 & 2 have cost considerable large amount of money, it is suggested, that all phone companies CALEA solution while at their design state, gets placed out to the CALEA committee for proper evaluation and that LE agencies should not have to suffer the cost of the phone company while testing the delivery path.
BICE/DEA			X		X	Not receiving push to talk calls	Phone companies in their never-ending expansion need to design and implement CALEA solutions before adding new technology to their services, eg Both Sprint and Verizon have push to talk out in the market, but still at this time, we are unable to receive push-to-talk calls.
ALL CASES	X	X	X		X	Unbelievably long delays in responding to subscriber requests	NEXTEL, regardless of how critical the case is, takes more than two weeks to respond to subscriber requests. Some targets have long fled or have committed crime before they are identified.

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Agency	Case			Target		Outcome	Remarks
	Kidnapping	Homicide	Narcotics	Landline	Wireless		
ALL CASES	X	X	X	X	X	No phone company support after normal business hours	First, business hours are normally based by phone company security offices local time zone. This in itself causes problems when working outside of their time zone area. Second, at the price LEA pays for a wiretap and the number of wiretaps LEA does in the country per year, there should be no reason, for phone companies not to provide 24-hr support.